

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Leslie W. Outen,)	
)	C/A No. 3:13-3563-MBS-SVH
Plaintiff,)	
)	
vs.)	ORDER
)	
Carrabba's Italian Grill, LLC, and)	
Jonathan Gajadhar,)	
)	
Defendants.)	
_____)	

On November 14, 2013, Plaintiff Leslie W. Outen filed a complaint in the South Carolina Circuit Court (Richland County) against her former employer, Defendant Carrabba's Italian Grill, and LLC; and her former manager, Jonathan Gajadhar. Plaintiff alleges that she was discriminated against on the basis of her gender (First Cause of Action) and retaliated against for having complained of discrimination (Second Cause of Action), in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. Plaintiff also asserts state law claims for assault and battery (Third Cause of Action).

On December 20, 2013, Defendants removed the action to this court, asserting federal question jurisdiction. Pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., the case was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling. The case was reassigned to United States Magistrate Judge Shiva V. Hodges on February 7, 2014.

This matter is before the court on Defendant Gajadhar's partial motion to dismiss for failure to state a claim. See Fed R. Civ. P. 12(b)(6). Defendant Gajadhar contends that he is not liable in his individual capacity with respect to Plaintiff's Title VII claims. See Lissau v. Southern Food Serv., 159 F.3d 177, 180 (4th Cir. 1998). Plaintiff filed no response in opposition to Defendant

Gajadhar's motion. On March 24, 2014, the Magistrate Judge issued a Report and Recommendation in which she recommended that Defendant Gajadhar's motion be granted and that Plaintiff's Title VII claims of discrimination and retaliation be dismissed as to Defendant Gajadhar only. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Defendant Gajadhar's motion to dismiss (ECF No. 14) is **granted**. Plaintiff's First and Second Causes of Action are **dismissed** as to Defendant Gajadhar only. The case is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina
May 28, 2014